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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Noriyoshi NISHIYAMA, *et al.*

Group Art Unit: 2834

Serial No.: 10/090,476

Examiner: L. Pham

Filed: March 4, 2002

Attorney Docket No.: MATS:037

For: MOTOR WITH STATOR FORMED BY ASSEMBLING DIVIDED STATOR-MEMBERS INTO AN ANNULAR SHAPE, AND COMPRESSOR INCORPORATING THE SAME MOTOR

COMMISSIONER FOR PATENTS  
P.O. Box 1450  
ALEXANDRIA, VA 22313-1450

Certificate of Filing By Facsimile

I hereby certify that this paper is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Date: 11/09/04

By: [Signature]

Marc A. Rossi

**PETITION TO REVIVE ABANDONED APPLICATION**

Sir:

Applicants hereby petition to revive the above-identified application from abandonment under 37 C.F.R. 1.137(a), as the abandonment was unavoidable on the part of the applicants. In the event that the Commissioner determines the facts presented do not support the withdrawal of abandonment as being unavoidable, however, then applicants petition to revive based on 37 C.F.R. 1.137(b) as being unintentional.

The Commissioner is hereby authorized to charge the required petition fee to Deposit Account 18-2056 along with any additional fees that may be required to maintain the pendency of this application upon entry of this petition.

REMARKS

1. On June 29, 2003 applicants filed a Request for Reconsideration of the final rejection of the claims issued on April 9, 2003 for the above-referenced application.

2. Having failed to receive an Advisory Action in response to the Request for Reconsideration, applicants filed a Request for Continued Examiner (RCE) and an amendment with petition for extension of time. Copies of the RCE and the amendment with petition for extension of time are enclosed.

3. Having still failed to receive a response to the Advisory Action or the RCE, applicants representative contacted the Office by telephone sometime after January 1, 2004 to request the status of the application. As of this date, applicants representative has been unable to locate the record showing the exact date of the contact.

4. Subsequent to the telephone inquiry, an Advisory Action was subsequently received from the Office. The mailing date of the Advisory Action was March 15, 2004, almost a full nine months from the date of applicants filing of the Request for Reconsideration. The Advisory Action failed to make any mention of the RCE.

5. Subsequent to the receipt of the Advisory Action, a telephone call was received from the examiner on April 15, 2004. The examiner was advised that the application had not been abandoned and that a response had been filed.

6. A Notice of Abandonment having a mailing date was subsequently received. The examiner noted that the undersigned attorney of record was contacted several times between May 17, 2004 to June 24, 2004 and left messages for confirming status of the application. The examiner states no response was received.

7. Contrary to the examiner's assertions, the undersigned attorney did respond to the examiner's messages regarding status. The examiner was advised at least once in a direct telephone conference with the undersigned that a response had been filed. Further, to the best knowledge of the undersigned, a staff member also responded at least once to the examiner.

8. In response to the Notice of Abandonment, the undersigned conducted a search to determine if a stamped receipt postcard evidencing receipt of the RCE had been returned from the Patent Office. To date, a stamped receipt postcard has not been found.

9. The undersigned then checked his personal docket to determine if the RCE had been filed. The docket indicates the RCE was filed on October 9, 2003. A copy of the docket entry is enclosed as evidence of filing.

10. The undersigned has also conducted a search of accounting records to determine if the RCE fee and extension fee were charged to Deposit Account 18-2056. No charge of the Deposit Account records has been found.

11. In view of the lack of a stamped receipt postcard and evidence of a charge on the Deposit Account, it is believed the RCE and amendment were either lost in the mail and not received by the Office or if received were not properly processed.

12. Applicants note that the long delay in receipt of the Advisory Action indicates some problem occurred in the processing of the application on the part of the Office. In fact, applicants believe the application file was mis-placed for some time at the Office. Whether this problem resulted in the non-entry of the RCE and amendment cannot be determined by the applicants.

13. Applicants submit that since applicants have no control of the operation of the United States Postal Service or the administration of the Office, the abandonment was unavoidable.

14. In the event that the Commissioner determines the fact situation does not warrant a finding of unavoidable abandonment, applicants request that the Commissioner entertain this petition as a petition based on unintentional abandonment.

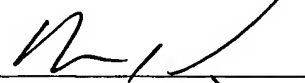
15. Applicants submit that the entire delay in filing the required reply (i.e. the RCE and amendment with extension) from the due date of the reply until the filing of a grantable petition was unintentional.

Any questions regarding this petition should be addressed to the undersigned attorney of record at 703-726-6020.

Respectfully submitted,

ROSSI & ASSOCIATES

11/09/09  
Date

  
Marc A. Rossi

ROSSI & ASSOCIATES  
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Ashburn, VA 20146-0826

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